

### **REMARKS/ARGUMENTS**

This amendment addresses the outstanding issues in the final office dated December 9, 2002. Entry of the amendments and reconsideration of the application are respectfully requested.

The following documents accompany this amendment:

1. Petition for Reinstatement under 37 CFR 1.137(b), including a statement of unintentional delay
2. Request for Continued Examination
3. Fee Transmittal Form including:
  - a. Petition fee
  - b. RCE Fee
4. Information Disclosure Statement

Applicant proposes to submit formal drawings upon receipt of a notice of allowable subject matter.

In the December 9, 2002 office action, the Examiner rejected the claims as being anticipated by Hoilje on the basis that the claims did not provide sufficient structure to distinguish over Hoilje.

In response, Applicant has replaced the claims with an amended set of claims 4-9 that recite specific structure to distinguish the claimed subject matter over Hoilje and all other prior art of record. The amendments to the claims are all reasonably inferable from the specification as originally filed.

Specifically, by this amendment, Applicant has clearly defined the structure of the paint tray as including an open reservoir, an inclined surface and a handle. With respect to the handle, the handle has been specifically defined as a handle having a shaft adapted for one-handed gripping, the shaft having a first end attached to the first end wall and extending outwardly midway between the first and second side walls in a direction parallel to the reservoir floor and the first and second side walls.

In support of the patentability of the claims as amended, Applicant offers the following comments with respect to the operation and benefits of the specific structure of the paint tray as defined. In addition, Applicant discusses the lack of teaching of such structure in the prior art and provides remarks as to why on the basis of this lack of teaching that the prior art of record would fail to motivate the worker of ordinary skill to combine past handles with a paint tray in the manner claimed so as not to meet the test for patentability required under 35 USC 103(a).

### **Structure and Use of the Present Paint Tray**

As is known, the normal use of a paint tray by a painter having a paint roller is as follows. After securing the paint tray on a stable surface (normally the floor or a ladder), paint is added to the tray. The painter will then dip the roller into the deepest section of the tray and then apply a back and forth rolling pressure up and down the inclined surface to evenly coat the roller with paint and to ensure that the appropriate quantity of paint is on the roller. Generally, an increasing amount of rolling pressure is applied as the roller moves up the inclined surface. This increasing amount of pressure is applied as the amount of paint at the upper regions of the inclined surface is less and even coating of the roller is more effective at the upper regions.

The present paint tray is used as above but is particularly adapted for carrying by the painter so that the painter is able to walk about as they are painting. In one preferred use, the paint tray is adapted for use with smaller rollers and smaller volumes of paint where the painter is applying paint to surfaces where smaller rollers are required, such as for trim work.

Specifically, the tray enables single-handed use wherein a painter can grasp the outwardly projecting handle with an overhand grip (normally in the left hand for a right-handed painter) and hold a paint roller in their right hand. The overhand grip allows the painter to properly stabilize the paint tray when applying an opposing pressure from their right hand as the roller is dipped in the reservoir and paint is loaded to the paint roller. In addition, the overhand grip allows the painter to stabilize the paint tray from rolling from side to side.

In the present design, as claimed, the location of the handle allows the painter to provide the appropriate opposing force with the opposite hand such that paint can be properly loaded to the roller while the paint tray is being carried. Past designs do not permit this, either because the handle does not permit an overhand grip which properly stabilizes the paint tray or the inclined surface is located at the opposite end of the tray such that the torque moment about the handle as the painter applies rolling pressure increases as the painter's two hands are moving further away from one another. The present design solves both of these past problems.

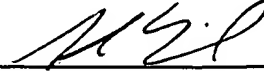
### **Discussion**

A review of the prior art reveals that the specific design and location of the handle as claimed is neither taught nor suggested in the prior art. As is evident from the above discussion, the paint tray and handle as defined, by virtue of the overall structure and the location of the handle on a paint tray, provides unique advantages that are neither considered or suggested by the prior art of record. Moreover, it is respectfully submitted that there is no direct or specific teaching in any of the prior art of record that would motivate the worker of ordinary skill to modify known paint trays to arrive at the subject matter as defined by amended claim 1. As such, it is respectfully submitted that the test for obviousness has not been satisfied as set forth in *In re Keller*.

Appl. No. 09/932,820  
Amdt. dated December 5, 2003  
Reply to Office Action of December 9, 2002

In view of the foregoing, reconsideration of the application is requested.

Respectfully submitted,



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Enclosures

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